

Remarks

The Examiner has rejected claims 1 and 3 under 35 USC 102(b) as being anticipated by US Patent No. 5,100,277 to Musil. It is respectfully submitted that Musil does not anticipate claims 1 and 3. Specifically, with respect to claim 1, Musil does not disclose a hopper having an open upper end and a bottom outlet, as contemplated by the present invention. As shown in the drawings of Musil, particularly Fig. 4, the outlet of Musil is on a side of the hopper 46 (rear of the hopper 46 relative to arrow 13 in Fig. 1) thus necessitating the hopper pivoting mechanism described at column 6, lines 29-65. Further, Musil does not disclose a chassis supporting a removable freight container. Musil discloses a paving machine 10 having a feed hopper 18. The Examiner admits that there is nothing in the disclosure of Musil to indicate that the hopper 18 is removable but asserts that it is a removable freight container as broadly claimed this assertion is not understood. If the disclosure of Musil does not indicate that the container is removable how can the hopper of Musil be considered a removable freight container. In any event the hopper of Musil certainly is not a freight container as contemplated by the claims of the present application. With respect to claim 3, Musil specifically teaches away from operating at a speed and angle to throw material following an arcuate path. As discussed at column 10, lines 27-56 the nature of paving asphalt is such that gravitational separation of aggregate is undesirable, so Musil utilizes shields 113 and 114 to ensure that gravitational separation is limited. Musil desires to merely drop material from the end of the slat conveyor downward into the feed hopper 18. Throwing the material at an angle and speed along an arcuate path would only contribute further to gravitational separation of aggregate. See also column 13 lines 44-52 and column 16 lines 2-6. The Examiner asserts that the conveyor of Musil is operable at a speed and angle to cause the material to follow an arcuate path, yet there is nothing in the Musil disclosure to suggest as much, and such is contrary to the teachings of Musil as discussed above.

The Examiner has also rejected claims 2 and 4-6 under 35 USC 103(a) as being unpatentable over Musil. It is respectfully submitted that claims 2 and 4-6 are not obvious in view of Musil for the reasons discussed above with respect to claims 1

and 3 and further for the reasons set forth below. Specifically, with respect to claim 2, because Musil does not disclose a chassis supporting a removable freight container, there is no suggestion in Musil that a fifth wheel hitch would be desirable or that such could even be used with the disclosed device. Further, with respect to claims 4-6, Musil teaches away from employing the conveyor at an angle and speed to throw material along an arcuate path to fill a container as discussed above. Because Musil teaches against the gravitational separation of aggregate, there is no suggestion in Musil to find an optimum angle and speed to attain an arcuate flow of material required to fill a freight container from one end as contemplated by the present invention.

In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested.

It is respectfully requested that the above amendment be entered in any event to place the claims in better condition for appeal.

Should the Examiner believe that a telephonic conference would be useful in furthering the present application toward allowance, the undersigned attorney would welcome such a call.

Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525. Two duplicates of this page are enclosed.

Respectfully,



Attorney for Applicant(s)

W. Michael Dixon
Reg. No. 37,815
Patent Department
Deere & Company
One John Deere Place
Moline, IL 61265
Telephone No. (309) 765-5159

I hereby certify that this correspondence is being deposited
with the United States Postal Service as first class mail in an
envelope addressed to:
Mail Stop AP
Commissioner for Patents
P.O. Box 1950
Alexandria, VA 22303-1450
on: 8 September 2005
Date

Deere & Company
Jaimie Newkirk 8 September 2005
Signature Date